

SHELBY SHOE CO., OF SALEM, MASS.

JUNE 27, 1952.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 1095]

The Committee on the Judiciary, to which was referred the bill (H. R. 1095) for the relief of Shelby Shoe Co., of Salem, Mass., having considered the same, reports favorably thereon, with an amendment in the nature of a substitute, and recommends that the bill, as amended, do pass.

PURPOSE

The purpose of the proposed legislation, as amended, is to pay the sum of \$84,498.98 to the Shelby Shoe Co. of Salem, Mass., less the amount distributed to its creditors, for loss sustained by this company as the result of delay in payments from the United States Army for the purchase of shoes.

AMENDMENT

Strike all after the enacting clause and insert in lieu thereof the following:

That (a), in full settlement of the claim of the Shelby Shoe Company, of Salem, Massachusetts, against the United States for losses sustained by it as a result of contract numbered W 19-074 qm-4627, dated May 21, 1946, with the Procurement Division of the Department of the Army, the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of \$84,498.98 to the Clerk of the United States District Court for the District of Massachusetts who shall use such sum (1) to pay to each unsecured creditor of said Shelby Shoe Company, after giving notice and upon demand therefor, as provided in subsection (b), the unpaid balance of his claim against such company appearing in schedules heretofore filed, under chapter 11 of the Bankruptcy Act, in the Shelby Shoe Company Bankruptcy Case, Number 70372, and (2) to pay the balance of such sum, after making the payments authorized in (1) and deducting all incidental expenses incurred in the disburse-

ment of such sum, to said Shelby Shoe Company; but nothing contained herein shall authorize the payment to any such creditor of interest on the unpaid balance of his claim against such company.

(b) Upon receipt of the sum herein authorized to be paid by the Secretary of the Treasury, said Clerk shall cause notice to be published not less than once in each of three successive weeks in one or more newspapers of general circulation, and a copy thereof sent by registered mail to the last known address of each of the creditors described in subsection (a), advising such creditors of the provisions of this Act. No such creditor shall be entitled to any payment under this Act unless he shall file with said Clerk a written claim therefor within three months after the date such notice shall be last published, or the date such notice shall have been mailed to his last known address, whichever is the later.

(c) No part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000.

STATEMENT

The Shelby Shoe Co. is a corporation located in Salem, Mass. It has been in existence for 27 years. From its beginning it manufactured men's and boys' work shoes and sold its products to jobbers and retailers. Throughout its entire history it enjoyed the reputation in the trade for manufacturing a good product and also maintained an excellent credit standing with its sources of supply. This concern consistently operated with a profit.

Commencing December 1940 (1 year before Pearl Harbor) the Shelby Shoe Co. contracted to manufacture and sell shoes to the United States Army. During 1941 it gradually retooled and converted its entire manufacturing facilities over to the production of shoes for the United States Army. It continued on this program without interruption for 7 years, completing its final contract in December 1947. During this period the Shelby Shoe Co. manufactured and shipped over 2,000,000 pairs of shoes for the United States Army. Up to January 1947 this operation was a profitable one for the company, and its record of performance under its contract was satisfactory to the Army.

On May 21, 1946, this claimant, the Shelby Shoe Co., entered into a new type of contract with the United States Army, No. W-19-074-qm-4627. At the time this contract was negotiated the Shelby Shoe Co. did not wish to contract for its entire production with the Army. The war was over, and the company wished to reconvert part of its production to civilian trade. However, at the request of the Army the company did agree to contract for its entire production of shoes to the Army.

The second part of this new contract contained an escalator clause for the protection of the company in the event of increased costs of materials or labor or both. The company was entitled to submit a claim against the Army for a redetermined price on each shipment. These claims were subject to Army audit and must be at least 45 days apart.

During the period of this contract (15 months) the prices of raw material advanced steadily so that the claimant company was compelled to file six different claims throughout this period for additional payments based on the escalator clause in the contract. The basic

payments were made by the Army on time, but the claims under the escalator clause were delayed from 88 days to 208 days.

The following is a schedule of claims filed by the Shelby Shoe Co. and the record of payments by the Army:

Date of filing	Date of payment	Number of days	Amount
Nov. 29, 1946.....	Feb. 24, 1947.....	88	\$57,965.00
Feb. 4, 1947.....	May 7, 1947.....	92	44,633.10
Mar. 21, 1947.....	July 21, 1947.....	122	52,401.60
June 13, 1947.....	} Nov. 26, 1947.....	166	31,695.00
Aug. 5, 1947.....		133	44,550.00
Oct. 10, 1947.....		208	51,426.45
Total.....	809	282,671.15

During the above period the Army purchasing offices formerly located in Boston, Mass., were moved to New York City. In moving, all the records and files of the Army pertaining to the Shelby Shoe Co. were delayed in transit, with the result that it was impossible to get any action from the Army with respect to auditing these claims or redetermining the price under the escalator clause of the contract and the payment of these claims. (See letter from Brig. Gen. Donald P. Booth.) As the result of these delays for a period of approximately 18 months, 85 percent of this small company's entire working capital of \$65,000 was completely frozen.

The company's favorable credit relations began to suffer. It became impossible to discount bills by payments on the due dates. Some suppliers now refused to sell to the Shelby Shoe Co., and it was only by the payment of higher prices and through the personal reputations of the officers of the company that enough materials were obtained to finish the contract and to make the final shipment on January 15, 1948.

During this period the Shelby Shoe Co. endeavored to finance these claims against the Army by assignment, but it was refused by Webster and Atlas Bank of Boston, Reconstruction Finance Corporation in Boston, National Rockland Bank of Boston, and American Business Credit Corp. of New York.

The damage had been done and finally after exhausting every possible effort to continue, the company ceased active manufacturing operations on June 30, 1948. It was forced to dismiss 150 employees and to start settlement proceedings with its creditors. On August 3, 1948, the company filed a petition in the District Court of the United States for the District of Massachusetts proposing an arrangement with its unsecured creditors under the provisions of chapter 11 of the act of Congress relating to bankruptcy. The arrangement was confirmed by the court, and all of the assets of the concern were sold. However, the corporation is still in existence, and any money realized from this claim will go to revive the company and put it back in business once again. After the full payment of preferred claims, such as wages, taxes, and expenses, the unsecured creditors received 60 percent, which is considered a good settlement in shoe circles. The liquidation of the company was carried out quickly, and all claims were settled and paid prior to December 30, 1948.

From the report of the firm of Simmons, Shannon, Donovan & Brady, certified public accountants, that was filed with the committee, it shows that the purchase payments delayed by the Army from November 29, 1946, to May 5, 1948, caused the Shelby Shoe Co. to lose its credit standing directly resulting in bankruptcy. The figures show that the company suffered a shrinkage in its net worth of \$70,114.96 and a loss of purchasing discount of \$14,384.02 during this period.

After an investigation, the committee omitted any claim for reasonable profits during the operation of this contract. The committee reduced the original claim from \$109,000 to \$84,498.98 and recommends the passage of this bill, as amended, in the sum of \$84,498.98.

Further details as well as pertinent correspondence in connection with this claim may be found in House Report 49, Eighty-second Congress, first session, and need not be reprinted here.

